

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

CASE NO.: 1:19-cv-01044-RP-SJH

APL MICROSCOPIC, LLC,

Plaintiff,

v.

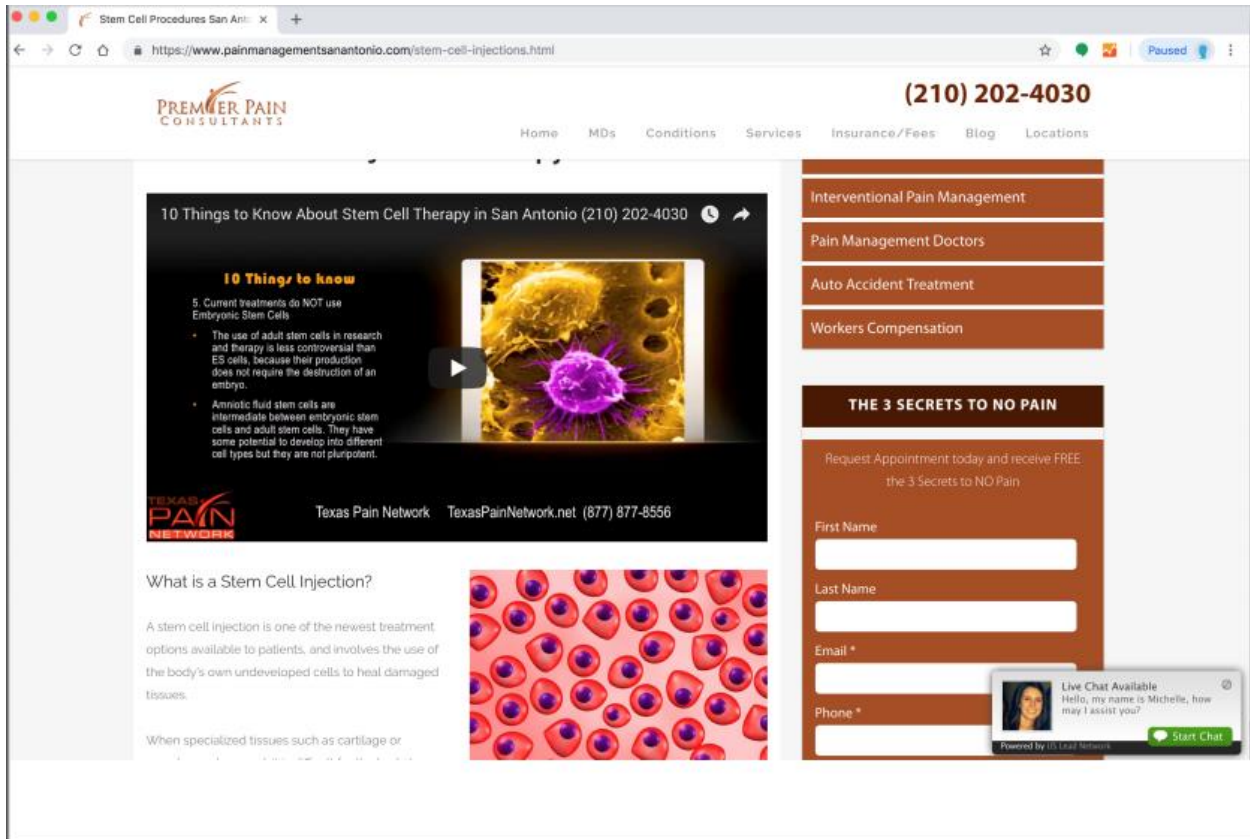
GREENE TECHNOLOGIES, LLC,

Defendant.

**DECLARATION OF ANDREW LEONARD IN SUPPORT OF PLAINTIFF'S
OBJECTION TO THE REPORT AND RECOMMENDATION**

I, ANDREW LEONARD, state the following:

1. I am over the age of 18 and am otherwise competent to testify. I make the following statements based on personal knowledge.
2. This is a supplemental declaration submitted in support of my objection to the Report and Recommendation of United States Magistrate Judge Susan Hightower entered on May 27, 2020 at Dkt. 18 (the "R&R").
3. This declaration supplements my prior declaration filed on January 8, 2020 at Dkt. 15-1.
4. I discovered the infringement at issue on January 17, 2019. My electron microscope image of a human bone marrow stem cell was displayed on the website for Premier Pain Consultants without my permission as shown below.



5. After my attorneys contacted Premier Pain Consultants, the webpage shown above was removed from the internet.

6. However, the removal of the webpage shown above did not stop the infringement.

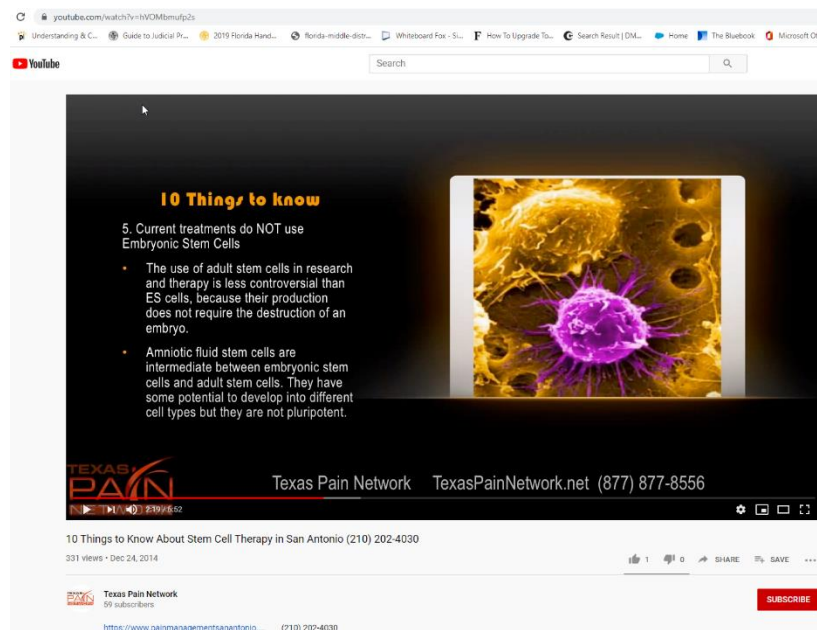
7. I recently discovered that the defendant, Greene Technologies, LLC ("Greene"), continued to display my Work in a YouTube video even after the Premier Pain Consultants webpage was removed.

8. Shown below is a screen shot taken on June 4, 2020 on YouTube of a video posted by Greene and its owner Dr. David Greene.



9. The Court can view the video shown above at <https://www.youtube.com/watch?v=hVOMbmufp2s>. According to YouTube, the video has received more than 300 views.

10. At about two minutes and sixteen seconds (2:16) into the video my Work appears as shown below.



11. My Work can be seen for approximately forty-four (44) seconds.

12. Based upon the information above, the Court can see that although the Premier Pain Network webpage has been removed from the internet, defendant Greene's infringement continues.

13. Judge Hightower concluded in the R&R that my company was not entitled to permanent injunctive relief. However, as shown above, because the defendant's infringement of my Work continues, I believe that there is a substantial likelihood of this infringement continuing in the future.

I swear or affirm the forgoing is true and correct under penalties of perjury.

DATED: June 9, 2020

A handwritten signature in cursive script, appearing to read "Andrew P. Leonard", is written over a horizontal line.

Andrew Paul Leonard